

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

NIKKI BOLLINGER GRAE, Individually and)	Civil Action No. 3:16-cv-02267
on Behalf of All Others Similarly Situated,)	
)
Plaintiff,)	Honorable Aleta A. Trauger
)
vs.)	Magistrate Judge Jeffrey S. Frensley
)
CORRECTIONS CORPORATION OF)	
AMERICA, et al.,)	
)
Defendants.)	
_____)	

NOTICE OF FILING

Pursuant to the Court’s June 5 Order (Dkt. No. 222) (the “Order”), Defendants CoreCivic, Inc. (“CoreCivic”), Damon T. Hininger, David M. Garfinkle, Todd J. Mullenger and Harley G. Lappin (collectively, “Defendants”), give notice of filing the sworn declaration of Natasha Metcalf, Vice President, Partnership Contract Counsel at CoreCivic. In this declaration, Ms. Metcalf explains her legal and non-legal roles during her employment at CoreCivic.

Upon receipt of the Court’s June 5 Order, Defendants engaged in another review of the universe of documents at issue. In an effort to minimize the burden upon the Court and to narrow the scope of the instant dispute, Defendants have withdrawn their privilege assertion over a number of documents identified in the Order and have produced those documents to Plaintiff. As a result,

the pending dispute before the Court now pertains to 18 documents. Those documents, and the privilege log corresponding to those documents (the “Metcalf Log”), have been submitted to the Court for *in camera* inspection concurrent with this filing. As the Court instructed, the Metcalf Log includes a field with the heading “Counsel Creating Privilege” that identifies by name the attorney(s) relevant to each assertion of privilege.

As set forth below and in Ms. Metcalf’s declaration, the documents submitted for *in camera* review were, and are, privileged. Ms. Metcalf acted as a lawyer at the Company both before, and after, the Class Period. In that role, she coordinated closely with members of the Legal Department, including points in time during the Class Period. Indeed, she often requested, helped facilitate and circulated legal advice during the Class Period. *See* Metcalf Decl. For the Court’s convenience, Defendants have provided a summary of the seventeen documents listed on the Metcalf Log over which Defendants assert privilege (which have been submitted to the Court for *in camera* review):

I. METCALF PRIVILEGE LOG DOCUMENTS¹

- **Tabs 1 and 2; Log Entry Nos. 1-9:** Draft cover letter and legal response written by outside counsel, Wiley Rein, LLP, regarding a government contract.
 - Tab 1; Log Entry Nos. 1-6: A January 21, 2015 email and attachments sent from Natasha Metcalf to Jeb Beasley with the subject line “Fwd: Cibola Cure Notice” in which Ms. Metcalf conveys privileged advice from CoreCivic’s outside counsel, Wiley Rein, LLP, and forwards a draft cover letter and legal response to the Cibola Cure Notice.
 - Tab 2; Log Entry Nos. 7-9: A January 21, 2015 email and attachments sent from Natasha Metcalf to Bart VerHulst and Tony Grande with the subject line “Cibola Cure Notice,” in which Ms. Metcalf conveys privileged information from CoreCivic’s outside counsel Wiley Rein, LLP, and forwards a draft cover letter and legal response to the Cibola Cure Notice

¹ “Tab” references are to the tabs in the binder of documents Defendants have submitted to the Court for *in camera* review.

written by outside counsel.

- **Tab 3; Log Entry Nos. 10-12:** A July 23, 2013 email and attachments sent from Natasha Metcalf to Ashley Odubeko with the subject line “Eden Conformance.” Ms. Metcalf attaches two emails in which she both seeks and conveys legal advice regarding operations at the Eden facility from Susan Lindsey, Assistant General Counsel, Labor & Employment.
- **Tabs 4-6; Log Entry Nos. 13-15:** A January 2015 email chain in which Ms. Metcalf requests and collects information in order to obtain legal advice from outside counsel, Wiley Rein, LLP, regarding the Company’s response to the Cibola Cure Notice.
 - Tab 4; Log Entry No. 13: A January 22, 2015 email from Natasha Metcalf to Ben Elrod, copying Melanie Carnaggio with the subject line “Cibola Cure Notice Response”; Ms. Metcalf requests and gathers information from Company employees to obtain legal advice from outside counsel, Wiley Rein, LLP.
 - Tab 5; Log Entry No. 14: A January 23, 2015 email from Melanie Carnaggio to Natasha Metcalf copying Ben Elrod, with the subject line “Cibola Cure Notice Response”; Ms. Metcalf requests and collects information from Company employees to obtain legal advice from outside counsel, Wiley Rein, LLP.
 - Tab 6; Log Entry No. 15: A January 23, 2015 email from Natasha Metcalf to Melanie Carnaggio with the subject line “Cibola Cure Notice Response”; Ms. Metcalf requests and collects information from Company employees to obtain legal advice from outside counsel, Wiley Rein, LLP.
- **Tab 7; Log Entry Nos. 16-17:** A January 25, 2015 email and attachment Natasha Metcalf sent to herself to which she attaches a draft response to the Cibola Cure Notice written by outside counsel, Wiley Rein, LLP.
- **Tabs 8-14; Log Entry Nos. 18-24:** A December 14, 2011 email chain in which Ms. Metcalf seeks and conveys legal advice from Susan Lindsey, Assistant General Counsel, Labor & Employment and Kate Stephenson, Assistant General Counsel, Labor & Employment.
 - Tab 8; Log Entry No. 18: A December 14, 2011 email from Natasha Metcalf to Carol Olson with the subject line “McRae CPARS Modification” in which Ms. Metcalf seeks legal advice from in-house counsel.
 - Tab 9; Log Entry No. 19: A December 14, 2011 email from Natasha Metcalf to Carol Olson with the subject line “McRae CPARS Modification” in which Ms. Metcalf seeks legal advice from in-house counsel.
 - Tab 10; Log Entry No. 20: A December 14, 2011 email from Natasha

Metcalf to Carol Olson with the subject line “McRae CPARS Modification” in which Ms. Metcalf seeks legal advice from Susan Lindsey, Assistant General Counsel, Labor & Employment and Kate Stephenson, Assistant General Counsel, Labor & Employment.

- Tab 11; Log Entry No. 21: A December 14, 2011 email from Carol Olson to Natasha Metcalf with the subject line “McRae CPARS Modification” in which Ms. Metcalf seeks, and Ms. Olson conveys, legal advice from Susan Lindsey, Assistant General Counsel, Labor & Employment and Kate Stephenson, Assistant General Counsel, Labor & Employment.
- Tab 12; Log Entry No. 22: A December 14, 2011 email from Natasha Metcalf to Carol Olson with the subject line “McRae CPARS Modification” in which Ms. Metcalf seeks, and Ms. Olson conveys, legal advice from Susan Lindsey, Assistant General Counsel, Labor & Employment and Kate Stephenson, Assistant General Counsel, Labor & Employment.
- Tab 13; Log Entry No. 23: A December 14, 2011 email from Natasha Metcalf to Carol Olson with the subject line “McRae CPARS Modification” in which Ms. Metcalf seeks, and Ms. Olson conveys, legal advice from Susan Lindsey, Assistant General Counsel, Labor & Employment and Kate Stephenson, Assistant General Counsel, Labor & Employment.
- Tab 14; Log Entry No. 24: A December 14, 2011 email from Natasha Metcalf to Carol Olson with the subject line “McRae CPARS Modification” in which Ms. Metcalf seeks, and Ms. Olson conveys, legal advice from Susan Lindsey, Assistant General Counsel, Labor & Employment and Kate Stephenson, Assistant General Counsel, Labor & Employment.
- **Tab 15; Log Entry Nos. 25-26:** An October 19, 2012 email and attachment sent from Carol Olson to Natasha Metcalf with the subject line “Weekly Report Contracts Update Sheet 10 19 12.xlsx.” Ms. Olson attaches a report created by Stacey Cason, Assistant General Counsel, Contracts (*see* Metcalf Decl. ¶ 9), created for the purpose of providing legal advice.
- **Tab 16; Log Entry No. 27:** A January 24, 2014 email from Ashley Odubeko to Natasha Metcalf with the subject line “Suggested changes to CAI Amendment” in which Ms. Metcalf and Ms. Odubeko discuss legal advice from Cole Carter, Associate General Counsel, Operations.
- **Tab 17; Log Entry No. 28:** A September 3, 2015 email from Ben Elrod to Natasha Metcalf and Jeb Beasley copying Kim White and Trish Barnard with the subject line “BOP REA review.” Mr. Elrod provides legal advice from outside counsel Wiley Rein, LLP.

DATED: June 19, 2020

Respectfully submitted:

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this 19th day of June, 2020.

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